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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,439	08/20/2003	Curtis R. Richardson	OTTR.01USC1	7991
7590	06/09/2005		EXAMINER	
The Law Offices of William W. Cochran, LLC Suite 230 3555 Stanford Road Fort Collins, CO 80525			EDWARDS, ANTHONY Q	
			ART UNIT	PAPER NUMBER
			2835	
DATE MAILED: 06/09/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/645,439	RICHARDSON, CURTIS R.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Anthony Q. Edwards	2835	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 22 February 2005.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 35-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 36-53 is/are allowed.
- 6) Claim(s) 35 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 August 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>5/18/05</u>	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION*****Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 35 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,068,119 to Derr et al. Derr et al. disclose a protective enclosure (11) for a touch screen device (100) having a LCD touch screen (6) comprising a shell (2, 4) that is capable of enclosing and substantially surrounding said touch screen device, said touch screen device being a separate unit from said protective enclosure, said shell being adapted to insert and remove said touch screen device by hand, said shell being substantially rigid and substantially crush-resistant (see col. 1, lines 61-67), said shell having an elevated protective rim (see Figs 1 and 2) substantially surrounding a perimeter of said LCD touch screen of said touch screen device so that when said touch screen device is disposed in said enclosure, said LCD touch screen of said touch screen device is recessed with respect to said protective rim of said shell so that said elevated protective rim inherently protects said LCD touch screen from deflection and breakage by contact with an object that is larger than said perimeter of said protective rim, a compressible gasket (12) that is disposed in a perimeter portion of said shell, a clamp (14) connected to said shell that clamps said shell in a closed position so as to compress said gasket when said shell is clamped closed providing an enclosure that is submersibly watertight, and a flexible protective membrane (6) that is integrally fixed on said shell so that said flexible protective membrane is disposed over

Art Unit: 2835

said LCD touch screen of said touch screen device when said touch screen device is disposed in said enclosure, said flexible protective membrane having a back side that has a substantially planar smooth surface that is adjacent to said LCD touch screen of said touch screen device when said touch screen device is disposed in said enclosure so that tactile inputs on a front side of said flexible protective membrane are communicated to said LCD touch screen through said flexible protective membrane, said flexible protective membrane being at least partially transparent such that said LCD touch screen is visible through said flexible protective membrane so that said LCD touch screen is capable of displaying and capturing information through said flexible protective membrane. See Figs 1 and 2A, as well as col. 4, lines 1-11.

*Response to Arguments*

Regarding claim 35, Applicant's arguments filed February 12, 2005 have been fully considered but they are not persuasive. Derr et al. teaches a protective shell that is "substantially crush-resistant" as claimed. Applicant is directed to the above rejections as well as to col. 1, lines 61-67 of the specification, which discloses a "a protective device largely insensitive to objects," which is substantially the same as being "substantially crush-resistant."

*Allowable Subject Matter*

Claims 36-53 are allowed. The following is an examiner's statement of reasons for allowance: regarding claim 36 and the corresponding method claim 47, it would not have been obvious to a person of ordinary skill in the art to provide a protective enclosure for a touch screen device including (1) a shell being substantially submersibly watertight, substantially rigid

Art Unit: 2835

and substantially crush-resistant, as well as being larger than the touch screen device so that there is a gap between an outer surface of the touch screen device and an inner surface of the shell so that the shell may flex when subjected to a crushing force without transmitting said force directly to said touch screen device, and (2) a flexible protective membrane that is integrally fixed on the shell so that the flexible protective membrane is disposed over said touch screen of the touch screen device when the touch screen device is disposed in the enclosure so that tactile inputs on a front side of the flexible protective membrane are communicated to the touch screen through the flexible protective membrane. These elements or steps are not taught or suggested by the prior art references. Claims 37-46 and 48-53 depend, either directly or indirectly, from independent claim 36 and 47, respectively, and are therefore allowable for at least the same reasons.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

### *Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

Art Unit: 2835

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

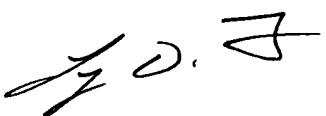
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Q. Edwards whose telephone number is 571-272-2042. The examiner can normally be reached on M-F (7:30-3:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynn D. Feild can be reached on 571-272-2800, ext. 35. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

May 31, 2005

aqe

  
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